

**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
ORIGINAL JURISDICTION**

Dated : Nainital the 17th August 2005
Fourth Criminal Misc. Bail Application No.589/2004
Order on the bail application of accused

CRIMINAL SIDE

Roshan Lal
S/o Shri Moti Ram
R/o village Shail Patal Devi
Almora, District Almora Applicant

Versus

State of Uttaranchal Opposite Party

Arising Out of case crime No.2402/2002
S.T. No.48/2002
U/s 302, 307, 452, 504 I.P.C.
P.S. Kotwali Almora
District – Almora

Hon'ble J. C. S. Rawat, J.

Heard Sri P. M. N. Singh learned senior counsel for the applicant assisted by Ms. Prabha Noliyal learned Advocate, and Sri G. S. Sandhu learned A.G.A. for the State.

Perused the record. This is the fourth bail application. This first and second bail application bearing No.509/2003 & 737/2003 were rejected on merit vide order dated 2.7.2003 and 11.9.2003 respectively. The third bail application was rejected as not pressed vide order dated 26.9.2003.

In the fourth bail application, the learned senior counsel for the applicant contended that the ballistic expert's report was not available till 1.5.2004 and this report was made available after disposal of the third bail application. As such, he has challenged the said report as well as the other facts of this case.

The learned senior counsel for the applicant contended that the opinion indicated in the ballistic expert's report shows that there may be two firearm, by which the shots were fired upon the deceased was caused. The learned senior counsel for the applicant contended that there are several discrepancies in the panchayatnama, challan-lash and the medical report. All the witnesses have been examined except the ballistic expert. The prosecution has directed to produce him for re-

crossexamination and his cross-examination has not been conducted so far. The learned A.G.A. refuted the contention and contended that the applicant-accused was nominated in the FIR and there is an eye-account of the incident in this case. Other evidence i.e. ballistic report, panchayatnama and medical report are the corroborative piece of evidence. The main controversy is that whether there is any prima-facie case against the applicant or not. It is well settled principle of law that if the oral evidence is found acceptable, the acceptable oral evidence should always be preferred even there is some discrepancies in the panchayatnama and medical report. There is an eye-account of the incident. As such, I do not find any good ground for granting the bail.

Therefore, the bail application is rejected.

(J. C. S. Rawat, J)

Dated 17.08.2005

LSR